

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STEVEN CURTICIAN,)	
)	
Plaintiff,)	Case No. 1:07-cv-286-SJM-SPB
)	
v.)	
)	
UNIT MANAGER KESSLER, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM JUDGMENT ORDER

Plaintiff's complaint in this civil rights action was received by the Clerk of Court on October 17, 2007 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on November 29, 2010 [84], recommends that the Defendants' motion for summary judgment [73] be granted in part and denied in part. Plaintiff's objections [88] were filed on February 28, 2011. After de novo review of the complaint and documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 25th Day of April, 2011;

IT IS ORDERED that Defendants' motion for summary judgment [73] be, and hereby is, GRANTED in part and DENIED in part, as follows:

1. Defendants' motion is GRANTED with respect to Plaintiff's retaliation claims against Defendant Kessler insofar as they relate to Defendant Kessler's

alleged involvement in: (i) dismissing all of Plaintiff's grievances "out of hand"; (ii) conducting investigations and illegal cell searches; and (iii) moving Plaintiff from block-to-block and cell-to-cell. With respect to such claims, JUDGMENT is hereby entered in favor of Defendant Kessler and against Plaintiff Steven Curtician.

2. Defendants' motion is GRANTED with respect to Plaintiff's retaliation claim against Defendant McConnell insofar as it relates to Defendant McConnell's alleged involvement in filing an allegedly false misconduct against Plaintiff. As to this claim, JUDGMENT is hereby entered in favor of Defendant McConnell and against Plaintiff Steven Curtician.
3. Defendants' motion is DENIED with respect to: (i) Plaintiff's Eighth Amendment failure-to-protect claim against Defendant Kessler, and (ii) Plaintiff's Eighth Amendment retaliation claim against Defendant Kessler insofar as said claims relate to Plaintiff's placement in inmate Stiefel's cell on October 27, 2008.

The Report and Recommendation of Magistrate Judge Baxter, filed on November 29, 2010 [84], is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: All parties of record

U.S. Magistrate Judge Susan Paradise Baxter